In the drawings:

Figure 1 stands objected to because it should be designated by a legend such as –

Prior Art – because only that which is old is illustrated. Figure 1 has been amended to

include the legend "Prior Art".

The drawings stand objected to under 37 CFR 1.84(p)(5) because they do not include

the following reference sign(s) mentioned in the description: 'reference numeral 150' as

described in par. [0022] lines 1-2. Figure 9 has been amended to include the reference

numeral '150' to refer generally to the method of the figure.

The drawings stand objected to under 37 CFR 1.84(p)(5) because they include the

following reference character(s) not mentioned in the description: 'KVI Device Driver 50' in

fig. 6, 'step 80' in fig. 7, and 'step 66', in fig. 8. The specification and a figure have been

amended to refer to the above listed reference characters. More specifically, paragraph

[0021] and Figure 6 have been amended so that reference character '50' refers to a

"customized KVI device driver", paragraph [0046] has been amended to refer to 'step 66' of

Figure 8, and paragraph [0047] has been amended to refer to 'step 80' of Figure 7.

Remarks

Applicant respectfully requests reconsideration of this application as amended.

Claims 1, 3, 5-8, 13, 15-17, 20, and 21 have been amended. No claims have been cancelled

or added. Therefore, claims 1-25 are presented for examination.

Drawings

The drawings and the specification have been amended to place the drawings in better

form for allowance. Applicant respectfully requests that the objections to the drawings be

withdrawn.

Specification

The specification has been amended to appear in better form for allowance. More

specifically, the computer program listing in paragraph [0028] has been amended to appear at

the end of the specification and before the claims. Included with this response is a substitute

sheet including the computer listing. Applicants respectfully requests that the objection to

the specification be withdrawn.

35 U.S.C. §112 Rejection

Claims 1, 3, 6, 13, 20 and 21 stand rejected under 35 U.S.C. §112, second paragraph,

as being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

Claims 1, 6, and 20 have been rejected for insufficient antecedent basis. The claims

have been amended to appear in better form for allowance. Applicant respectfully requests

that the §112 rejection be withdrawn for these claims.

Claims 3, 13, and 21 have been rejected for containing trademark/trade names.

Claims 3 and 13 have been amended to appear in better form for allowance. Applicant

submits that claim 21 does not require amendment. The use of the trademarks in claims 3,

13, and 21 solely distinguishes the source or origin of the product, the product being a

computer system or a kernel. As such, the trademarks are not being used by themselves to

identify or describe a particular product. (See *Ex parte Simpson*, 218 USPQ 1020 (1982), fn.

1.) Therefore, applicant respectfully requests that the §112 rejection be withdrawn for these

claims.

35 U.S.C. §101 Rejection

Claims 1-3 and 9-10 stand rejected under 35 U.S.C. §101 because the claimed

invention is directed to non-statutory subject matter. Applicant submits that claim 1 is

directed towards statutory matter as it provides a practical application in the technological

arts. The method of claim 1 is directed to a computer program module which includes a

computer program component with functionality that the computer program module will

execute. It further includes an installation module to run on a computer. This is more than

an abstract idea without any tangible application or useful result. As claims 2, 3, 9, and 10

depend from claim 1, they are also directed towards statutory matter. Therefore, applicant

respectfully requests the §101 rejection be withdrawn.

35 U.S.C. §102(b) Rejection

Claims 1-4, 11-14 and 19 stand rejected under 35 U.S.C. §102(b) as being anticipated

by Carney et al. (U.S. Patent No. 5,303,392). Applicant submits that the present claims are

patentable over Carney.

Carney discloses a method and apparatus for providing access to symbol definitions in a dynamically reconfigurable operating system. An operating system symbol definition file builder is invoked to build a symbol definition file comprising current symbol definitions in the operating system. The builder may be invoked whenever a utility or an application program requests to open the symbol definition file and there is not an up-to-date system definition image file. The builder deletes the symbol definition file whenever the symbol definition image file is closed by the last referencing utility/application program, and the system definition file is no longer up-to-date. (See Carney at col. 1, ln. 60 – col. 2, ln. 12.)

Claim 1, as amended, recites:

> A method of distributing a computer program module, the method comprising:
> distributing a computer program component, which includes code defining functionality associated with the computer program module and excludes version identification data, for the computer program module to execute the functionality under command from a master computer program; and
> distributing an installation module which, when run on a computer, obtains the version identification data from the master computer program and combines the version identification data and the computer program component to define the computer program module.

Applicant submits that Carney does not disclose or suggest a computer program component excluding version identification data. First, the Office Action does not point to or describe anything in Carney that discloses a computer program component. Nor can applicant find any disclosure or suggestion of a computer program component in Carney. Furthermore, the Office Action cites "a utility...request[ing]...the symbol definition" in Carney as disclosing this feature. (Office Action at page 6, point 10.) The symbol definitions in Carney are representations of a memory object to which the symbol refers.

(Carney at col. 5, ln. 62 – col. 6, ln. 3.) This is not the same as version identification data. Therefore, claim 1 is patentable over Carney.

Claims 2-10 depend from claim 1 and include additional limitations. Therefore, claims 2-10 are also patentable over Carney.

Claim 11, as amended, also recites a computer program component excluding version identification data. Similar to the discussion above, Carney does not disclose or suggest such a feature. Therefore, claim 11 is patentable over Carney for the reasons discussed above with respect to claim 1. As claims 12-20 depend from claim 11 and include additional limitations, claims 12-20 are also patentable over Carney.

Claims 10 and 20 stand rejected under 35 U.S.C. §102(b) as being unpatentable over Carney et al. in view of *In re Larson, Russley, and Meldahl* 144 USPQ 347. Claims 10 and 20 depend from claims 1 and 11, respectively, and necessarily include the limitations of claims 1 and 11. As discussed above, claims 1 and 11 are patentable over Carney. Furthermore, the reasoning of *In re Larson* does not assist Carney in disclosing or suggesting the features of claims 1 and 11. Therefore, claims 10 and 20 are patentable over Carney.

35 U.S.C. §102(e) Rejection

Claims 21-25 stand rejected under 35 U.S.C. §102(e) as being anticipated by Lin et al. (U.S. Pub. No. 2003/0101290 A1). Applicant submits that the present claims are patentable over Lin.

Lin discloses a system and method for providing device driver support in an open source operating system. The device driver includes an open source operating system,

including an open source kernel, is constructed from an open source service layer and a set of precompiled driver modules. The system of Lin allows for an open source operating system that permits computer system manufacturers to provide device drivers for its computer systems, while preventing the disclosure of sensitive proprietary information in those device drivers. (See Lin at pg. 2, paragraphs [0009] – [0011].)

Claim 21, as amended, recites in part, combining the symbols with driver code functionality provided by a computer program product to form a kernel version independent device driver. Applicant submits that Lin does not disclose or suggest such a feature. The Office Action cites "the compiled service layer is linked to the complied driver modules" in Lin as disclosing this feature. (Office Action at page 9, point 13.)

However, this cited portion of Lin is not the same as combining symbols with driver code functionality provided by a computer program product to form a kernel version independent device driver. Applicant submits that a "compiled service layer" of Lin is not the same as the symbols recited in claim 21. Also, there is no disclosure or suggestion in Lin of forming a kernel version independent device driver. Therefore, claim 21 is patentable over Lin. Claims 22-25 depend from claim 21 and include additional limitations. Therefore, claims 21-25 are also patentable over Lin.

35 U.S.C. §103(a) Rejection

Claims 5-9, 15-18, 21 and 23-25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Carney et al. (U. S. Patent No. 5,303,392). Claims 5-9 depend from claim 1, claims 15-18 depend from claim 11, and claims 23-25 depend from claim 21. These dependent claims necessarily include the limitations of their independent claims.

As discussed above with respect to claims 1 and 11, Carney does not disclose or suggest a computer program component excluding version identification data. Nor is such a feature obvious to one skilled in the art. Therefore, claims 5-9 and 15-21 are patentable over Carney for the reasons discussed above with respect to claims 1 and 11.

The Office Action has provided no explanation for why claims 21 and 23-25 are unpatentable in view of Carney. Applicant can find no disclosure or suggestion in Carney of the features of claims 21 and 23-25. Therefore, claims 21 and 23-25 are patentable over Carney.

Claims 1-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lin et al. (U.S. Pub. No. 2003/0101290 A1). Claims 1 and 11 recite, in part, a computer program component excluding version identification data. Applicants submit that Lin does not disclose or suggest a computer program component excluding version identification data. The Office Action cites "a pre-compiled device driver ... associated with the kernel" in Lin as disclosing this feature. (Office Action at page 13, point 16.) However, this is not the same as a computer program component excluding version identification data.

The Office Action implies that a pre-compiled driver is the same as version identification data, and then further reasons that it would have then been obvious to exclude the version identification data. Applicant disagrees that a pre-compiled driver is the same as version identification data. Applicant further disagrees that it would be obvious to exclude version identification data as preventing the disclosure of sensitive proprietary information is a separate matter from excluding version identification data. Therefore, claims 1 and 11 are patentable over Lin. Claims 2-10 and claims 12-10 depend from claims 1 and 11,

respectively, and include additional limitations. Therefore, claims 2-10 and 12-20 are also patentable over Lin.

Claims 21 and 23-25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Carney et al. in view of 'Linux Home Page' as posted 12/01/2001. 'Linux Home Page' discloses basic background information regarding the Linux operating system. Claim 21 recites, in part, declaring structures that describe application program interfaces (APIs) to be imported from the Linux kernel for operation of the device driver.

Applicant submits that Carney does not disclose or suggest such a feature. The Office Action cites "a symbol definition file comprising current symbol definitions of the operating system" in Carney as disclosing this feature. (Office Action at page 16, point 17.) However, the symbol definitions in Carney are not the same as application program interfaces (APIs) as recited in the present application. Nor is there any disclosure in Carney of importing the APIs from the operating system kernel. Furthermore, Applicant submits that 'Linux Home Page' does not disclose or suggest declaring structures that describe application program interfaces (APIs) to be imported from the Linux kernel for operation of the device driver.

As neither Carney nor 'Linux Home Page' disclose or suggest the features of claim 21, any combination of Carney and 'Linux Home Page' would not disclose or suggest those features. Therefore, claim 21 is patentable over Carney even in view of 'Linux Home Page'. Claims 23-25 depend from claim 21 and include additional limitations. As a result, claims 23-25 are also patentable over Carney even in view of 'Linux Home Page'.

Claim 22 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Carney et al. in view of Siegel (U.S. Patent No. 6,298,440 B1). Siegel discloses a method for initializing an auxiliary code resource, namely multiple entry point code resources. (See Siegel at Abstract.) Claim 22 depends from and necessarily includes the limitations of claim 21. As discussed above with respect to claim 21, Carney does not disclose or suggest declaring structures that describe application program interfaces (APIs) to be imported from the Linux kernel for operation of the device driver. Nor does Siegel disclose or suggest such a feature. Therefore, any combination of Carney and Siegel would not disclose or suggest the features of claim 22. As a result, claim 22 is patentable over Carney even in view of Siegel.

Claim 22 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Lin et al. in view of Siegel. Claim 22 depends from and necessarily includes the limitations of claim 21. As discussed above with respect to claim 21, Lin does not disclose or suggest combining the symbols with driver code functionality provided by a computer program product to form a kernel version independent device driver. Nor does Siegel disclose or suggest such a feature. Therefore, any combination of Lin and Siegel would not disclose or suggest the features of claim 22. As a result, claim 22 is patentable over Lin even in view of Siegel.

Applicant respectfully submits that the rejections have been overcome and that the claims are in condition for allowance. Accordingly, applicant respectfully requests the rejections be withdrawn and the claims be allowed.

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.
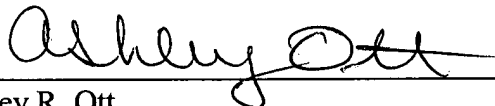
Applicant respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: March 18, 2005

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